

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

JUAN RUBIO, *PRO SE*, §
Plaintiff, §
§
v. § 2:04-CV-0320
§
SILVERHAWK SECURITY, §
§
Defendant. §

MEMORANDUM OPINION AND ORDER OF DISMISSAL

Plaintiff JUAN RUBIO, acting pro se, has filed suit pursuant to Title 42, United States Code, Section 1983 and the Americans with Disabilities Act complaining against the above-named defendant.

Rule 4, Federal Rules of Civil Procedure, provides that the plaintiff is responsible for service of a summons and complaint upon each defendant within the time allowed under subdivision (m) of Rule 4, Federal Rules of Civil Procedure. "If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to the defendant or direct that service be effected within a specified time; provided that, if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period." Federal Rules of Civil Procedure 4(m).

Plaintiff filed suit on December 1, 2004 and was granted an extension of time until June 24, 2005 in which to file proof of service. More than one-hundred-twenty days have elapsed since filing, and the extension has expired without further submission from plaintiff.

Plaintiff has failed to file proof of service on the defendant after notice pursuant

to Rule 4(m), Federal Rules of Civil Procedure, and has not shown any further extension would be appropriate.

IT IS THEREFORE ORDERED:

This Civil Rights Complaint is DISMISSED WITHOUT PREJUDICE
PURSUANT TO RULE 4(m), FEDERAL RULES OF CIVIL PROCEDURE, FOR FAILURE
TO SERVE THE DEFENDANT.

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk will mail a copy of this Order to the plaintiff and to any attorney of record by first class mail.

IT IS SO ORDERED.

ENTERED this 5th day of July, 2005.

/s/ Mary Lou Robinson
MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE